



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Pesticide Control Board
<b>VAC Chapter Number:</b>	2VAC20-30
<b>Regulation Title:</b>	Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act
<b>Action Title:</b>	Amend
<b>Date:</b>	April 1, 2003

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The existing regulations establish fees, renewal dates, and late fees for the registration of pesticides, certification of commercial applicators and registered technicians and licensing of pesticide businesses. The proposed amendments: (1) delete obsolete references to pesticide product registration fees; (2) establish certification periods and fees for commercial applicators and registered technicians; and (3) establish fees for adding a category or subcategory to an existing commercial pesticide applicator's certificate. The proposed amendments also clarify the intent and meaning of the regulation.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

Section 3.1-249.30 of the Code of Virginia (1950), as amended, (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-249.30>) provides the discretionary authority for the regulation. Section 3.1-249.30 of the Code of Virginia authorizes the Pesticide Control Board (Board) to promulgate regulations in regards to fees as follows: "...the Board may promulgate regulations... including but not limited to the following: ... 7. Establishing a fee structure for licensure, registration and certification to defray the costs for implementing this chapter." In addition, Sections 3.1-249.35 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-249.35>), 3.1-249.36 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-249.36>), 3.1-249.47 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-249.47>) and 3.1-249-52 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+3.1-249.52>) notes the Board's mandatory authority for promulgating a fee schedule in support of Section 3.1-249.30.

The Office of the Attorney General has certified the Board has the statutory authority to promulgate the proposed regulation.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

The proposed regulations set fees for (1) pesticide products offered for sale in the Commonwealth; (2) commercial pesticide applicators providing pest control services to citizens of the Commonwealth; (3) registered technician applicators providing pest control services to citizens of the Commonwealth; and (4) pesticide businesses operating in the Commonwealth. In addition to the fee structure, these regulations establish renewal deadlines and late fees.

These regulations are essential to the health and welfare of Virginia citizens because: (1) registration of pesticide products protects against extremely hazardous pesticides being sold to Virginia citizens or improperly labeled pesticides which can lead to human health problems, including death, if application, mixing, storing and disposal instructions are ambiguous or

misleading; (2) certification of pesticide applicators and registered technicians are properly trained so they may apply pesticides in a manner that will not harm the public or environment; and (3) licensing of pesticide businesses to ensure that businesses which engage in the sale and or application of pesticides are aware of the potential hazards that pesticides pose to human health or the environment.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

Substantive changes to existing sections include:

1. Deletion of language referring to earlier pesticide product registration fees that have subsequently become outdated thereby establishing a single pesticide product registration fee.
2. Establishment of a 2-year certification period and fee for a commercial pesticide applicator's certificate and a biennial renewal fee.
3. Establishment of a fee for adding a category or subcategory to a pesticide applicator's certificate.
4. Establishment of a 2-year certification period and fee for a registered technician's certificate and a biennial renewal fee.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

The advantages of the amendments include: (1) the regulation will be easier to read and understand for the industry and the regulators; (2) the certification fee period and the certificate dates will coincide making it easier for the regulated community, public and the agency and reducing confusion for the regulated community and the public; and (3) the regulated community will know the cost for adding a category or subcategory to their certificate.

There are no disadvantages to the public or the Commonwealth of Virginia.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

The projected cost to the state to implement and enforce the proposed amendment to 2VAC20-30-20 is neutral as the amendments solely clarify the current pesticide product registration fee of \$160.00 with expenditures being ongoing. Fund source/fund detail is 09/01. The budget activity is Pesticide Certification and Regulation Services in program 557 subprogram 04. The proposed amendment will affect pesticide registrants registering pesticides in the Commonwealth of Virginia, but will be cost neutral to them. During calendar year 2002, 1,036 pesticide registrants registered 12,731 pesticide products.

The projected cost to the state to implement and enforce the proposed amendments to 2VAC20-30-30 and 2VAC20-30-40 is a savings of \$10,500 with expenditures being ongoing. The projected savings comes from the reduced administrative costs of renewing certificates every two years rather than every year. Fund source/fund detail is 09/01. The budget activity is Pesticide Certification and Regulation Services in program 557 subprogram 04. The proposed amendments will affect: (1) approximately 4,000 individuals making an initial application for certification annually as commercial applicators (1,000) and registered technicians (3,000) and (2) approximately 200 commercial applicators making application annually to add a category or subcategory to their commercial applicator certificate. The proposed amendments will be cost neutral to both groups, as the certification period will increase to two years negating the requirement of renewing their certification and paying the renewal fee annually and current regulations requiring a \$35.00 annual certification fee, respectively.

There is no anticipated fiscal impact on the Commonwealth of Virginia, localities, the agency or Virginia citizens other than those discussed above.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

2VAC20-30-20 - The proposed amendments will delete references to pesticide product registration fees for time periods that have expired and establish a single pesticide product registration fee of \$160.00.

2VAC20-30-30 - The proposed amendments will establish a commercial applicator initial certificate fee of \$70.00 for a 2 year certification period, a biennial renewal fee of \$70.00 and a \$70.00 reexamination fee for certificate holders whose certificates have not been renewed within 60 days following their expiration. The proposed amendments reference the commercial applicator renewal requirements of 2VAC20-51-130. The proposed amendments also establish a nonrefundable fee of \$35.00 for any person applying to add a category or subcategory to their commercial applicator certificate.

2VAC20-30-40 - The proposed amendments will establish a registered technician initial certificate fee of \$30.00 for a 2 year certification period, a biennial renewal fee of \$30.00 and a \$30.00 reexamination fee for certificate holders whose certificates have not been renewed within 60 days following their expiration. The proposed amendments reference the commercial applicator renewal requirements of 2VAC20-51-130.

### Alternatives

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

---

One alternative to the existing regulation would be to not charge a fee for (1) registering pesticide products, (2) certifying pesticide applicators and registered technicians, and (3) licensing pesticide businesses. In lieu of fees, the administration of these programs would require support from general fund tax dollars. This alternative was rejected because it would place a burden on all Virginia citizens by reducing the general fund tax dollars available to other programs while benefiting only those registering pesticides or applying pesticides. The existing regulation is the least burdensome alternative requiring those benefiting from these programs to wholly support the administration of these programs.

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

---

The agency received no public comment in response to the Notice of Intended Regulatory Action.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

---

The agency, through examination of the regulation, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

---

The agency intends to review this regulation within three years after the amended regulation takes affect.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

---

Unless otherwise discussed in this report, this regulation has no impact upon families.